IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 3677 OF 2007
IN
SUIT NO. 2712 OF 2007

Arjan Pachan Shah. ... Plaintiff.

V/s.

Father Sabastian Correa & Others. ... Defendants.

Mr. D.A. Barot for the Plaintiff.
Ms. N. Dara i/b. Nameet & Co. for Defendants 1 and 2.
Mr. A.Y. Bookwala, Senior Counsel with Mr. Hasan Shaikh i/b. Dr. (Mrs.) R.R. Ajinkya for Defendant 3.

CORAM : DR. D.Y. CHANDRACHUD,J.

18TH DECEMBER 2007.

P.C. :-

. By consent, the Notice of Motion has been taken up on Board and will be disposed of by the present order.

2. The Suit is for specific performance of an agreement dated 15th April 1990 alleged to have been arrived at between the Plaintiff on the one hand and the Second Respondent which is a Charitable Trust

registered under the Bombay Public Trust Act, 1950. It appears that after the agreement was entered into with the Plaintiff by the Second Respondent, proceedings were initiated under Section 36 of the Bombay Public Trust Act, 1950 for seeking the sanction of the Charity Commissioner. It is undisputed that the Charity Commissioner has neither granted nor refused this permission and those proceedings are pending. In the meantime, the trust has entered into a memorandum of understanding with the third Defendant and a fresh application has been filed before the Charity Commissioner under Section 36 for sanction. The Plaintiff has lodged objections before the Charity Commissioner. It is the contention of the trust that the Plaintiff had withdrawn the objections but, the Plaintiff disputes the authenticity of the alleged affidavit by which the objections are stated to have been withdrawn. At the present stage, since the proceedings before the Charity Commissioner are still pending, no further directions are sought save and except that the Plaintiff would be at liberty to urge all his objections in the pending proceedings before the Charity Commissioner which shall be decided in accordance with law.

3. In so far as the occupation of the tenanted premises by the Plaintiff is concerned, Counsel appearing on behalf of the Defendants states that the possession of the Plaintiff shall not be disturbed save and except in accordance with due process of law.

4. In view of the aforesaid directions, no further directions are sought in the Notice of Motion which is accordingly disposed of. All the rights and contentions of the respective parties in the proceedings before the Charity Commissioner are kept open.